

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

UNITED STATES OF AMERICA        )  
                                        )  
                                        )  
v.                                    )      Cr. No. 07-134-S  
                                        )  
                                        )  
SOUTHERN UNION COMPANY        )

**UNITED STATES' MOTION CONCERNING  
THE ISSUES THAT SHOULD BE RESOLVED ON REMAND**

There are three main issues that the Court should resolve on remand: (1) whether the Court may empanel a jury to find the number of days of the violation; (2) whether the \$12 million in community service obligations rest on a different statutory and constitutional basis than the \$6 million fine; and (3) whether the alternative fine statute permits a fine of up to \$500,000. For the reasons stated in the accompanying memorandum, the Court should answer all three questions in the affirmative. If it does so, it should ultimately empanel a jury. In the absence of a jury determination concerning the number of days of the violation, however, the Court should hold that the \$12 million portion of the judgment remains intact, and that it may fine the company up to \$500,000.

Respectfully submitted,

UNITED STATES OF AMERICA  
By its Attorneys,

PETER F. NERONHA  
United States Attorney

/s/ Donald C. Lockhart

DONALD C. LOCKHART  
Assistant U.S. Attorney

U.S. Attorney's Office  
50 Kennedy Plaza, 8th Floor  
Providence, RI 02903  
Tele: (401) 709-5030  
FAX: (401) 709-5001  
[donald.lockhart2@usdoj.gov](mailto:donald.lockhart2@usdoj.gov)

TERRENCE P. DONNELLY  
Assistant U.S. Attorney  
U.S. Attorney's Office  
50 Kennedy Plaza, 8th Floor  
Providence, RI 02903  
Tele: (401) 709-5030  
FAX: (401) 709-5001  
[terrence.donnelly@usdoj.gov](mailto:terrence.donnelly@usdoj.gov)

COLIN L. BLACK  
Trial Attorney  
U.S. Department of Justice  
Environment & Natural Resources Division  
Environmental Crimes Section  
601 D Street, N.W.  
Washington, DC 20530  
Tele: (202) 305-2729  
[colin.black@usdoj.gov](mailto:colin.black@usdoj.gov)

DIANNE G. CHABOT  
Regional Criminal Enforcement Counsel  
U.S. Environmental Protection Agency  
Criminal Investigation Division  
5 Post Office Square  
Suite 100, OES04-2  
Boston, MA 02109-3912  
Tele: (617) 918-1868  
FAX: (617) 918-0868  
[chabot.dianne@epamail.epa.gov](mailto:chabot.dianne@epamail.epa.gov)

**CERTIFICATE OF SERVICE**

I hereby certify that on August 23, 2012, a copy of the within filing was filed electronically and is available for viewing and downloading from the ECF system.

Electronic notification:

JOHN A. TARANTINO (#2586)  
jtarantino@apslaw.com  
PATRICIA K. ROCHA (#2793)  
ADLER POLLOCK & SHEEHAN P.C.  
One Citizens Plaza, 8th Floor  
Providence, Rhode Island 02903

GERALD J. PETROS  
HINCKLEY, ALLEN & SNYDER LLP  
1500 Fleet Center  
Providence, RI 02903

/s/ Donald C. Lockhart

DONALD C. LOCKHART  
Assistant U.S. Attorney  
U.S. Attorney's Office  
50 Kennedy Plaza, 8th Floor  
Providence, RI 02903  
Tele: (401) 709-5030  
FAX: (401) 709-5001  
[donald.lockhart2@usdoj.gov](mailto:donald.lockhart2@usdoj.gov)